

AN ORDINANCE

98852

AUTHORIZING 2002 STREET IMPROVEMENT CERTIFICATES OF OBLIGATION FUNDS IN THE AMOUNT OF \$891,925 FOR ACQUISITION OF FEE SIMPLE TITLE TO FIFTY SEVEN (57) PARCELS OF REAL PROPERTY AND DECLARING THE CALLAGHAN - BANDERA TO INGRAM METROPOLITAN PLANNING ORGANIZATION PROJECT ("PROJECT") TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE TO PRIVATELY OWNED REAL PROPERTY DESCRIBED BELOW, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT; ALL PROPERTIES BEING IN THE CITY OF SAN ANTONIO, BEXAR COUNTY TEXAS; BEING FOR A PUBLIC PURPOSE; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING NEGOTIATIONS AND ACQUISITION ON THE APPROVED TERMS; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; THE PROPERTY TO BE ACQUIRED IS:

PARCEL NO.	ACRE(S)	LOT(S)	NCB	SUBDIVISION
16343	0.0394	61	11543	Woodlawn Hills
16339	0.0559	110	11543	Woodlawn Hills
16342	0.0275	112	11543	Woodlawn Hills
16343A	0.0107	113	11543	Woodlawn Hills
16343B	0.0126	114	11543	A. A. Alexander
16343C	0.0151	115	11543	A. A. Alexander
16344	0.0841	89	11544	Woodlawn Hills
16338	0.0505	111	11545	Woodlawn Hills
16337	0.0311	112	11545	Woodlawn Hills
16336	0.0311	113	11545	Woodlawn Hills
16335	0.0317	114	11545	Woodlawn Hills
16334	0.0310	115	11545	Woodlawn Hills
16333	0.0310	116	11545	Woodlawn Hills
16331	0.0391	117	11545	Woodlawn Hills
16329	0.0470	118	11545	Woodlawn Hills
16301	0.0207	190	11549	Woodlawn Hills
16303	0.0192	191	11549	Woodlawn Hills
16305	0.0308	192	11549	Woodlawn Hills
16306	0.0113	242	1159	Woodlawn Hills
16307	0.0127	243	11551	Woodlawn Hills
16308	0.0038	274	11551	Woodlawn Hills
16310	0.0246	275	11551	Woodlawn Hills
16311	0.0121	282	11551	Woodlawn Hills
16313	0.0042	N 70-ft. of	11552	Woodlawn Hills

		Lot 283		
16312	0.0255	283	11552	Woodlawn Hills
16314	0.0146	308	11552	Woodlawn Hills
16315	0.0263	309	11552	Woodlawn Hills
16320	0.0696	311	11552	Woodlawn Hills
16318	0.0332	312	11552	Woodlawn Hills
16317	0.0375	313	11552	Woodlawn Hills
16316	0.0677	314	11552	Woodlawn Hills
16316A	0.0076	314-A	11552	Woodlawn Hills
16327	0.0487	E 150-ft. of Lot 298	11553	Woodlawn Hills
16326	0.0461	299	11553	Woodlawn Hills
16325	0.0315	300	11553	Woodlawn Hills
16324	0.0316	301	11553	Woodlawn Hills
16323	0.0306	302	11553	Woodlawn Hills
16322	0.0306	303	11553	Woodlawn Hills
16321	0.0344	304	11553	Woodlawn Hills
16339A	0.0712	2	11556	Mackey, Unit 2
16339B	0.0804	4	11556	Mackey, Unit 2
16339C	0.0518	6	11556	Border Ornamental
16339D	0.0040	6	11556	Border Ornamental
16340	0.0271	7	11635	
16341	0.0312	P-5	11635	
16330	0.0525	P-7	11635	
16328	0.0249	P-7	11635	
16319	0.0822	P-102A	11635	
16309	0.02817	P-104A	11635	
16298	0.0418	2	13415	Science Park
16299	0.0466	3	13415	Science Park
16300	0.0034	4	13415	Science Park
16300A	0.0022	7	13415	Science Park
16300B	0.0010	7	13415	Science Park
16323A	0.0011	2	16029	Green Tree Tennis & Swim Club
16304	0.0259	1	16669	Thunderbird Estates
16302	0.0058	12	16669	Kingswood

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WHEREAS, the City of San Antonio ("City") desires to reconstruct and widen Callaghan Road from Bandera to Ingram; and

WHEREAS, the construction of the street widening, which will include curbs, sidewalks, driveway approaches, is a necessary public project; and

WHEREAS, the Project is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is necessary to construct a portion of the Project upon property that is privately owned; and

WHEREAS, it is further necessary to obtain and acquire the fee simple title on 57 parcels of land for use as part of the Project and the property to be acquired is described in Section 3 below, and more fully in **Attachment I** attached hereto and incorporated herein for all purposes; and

WHEREAS, in order to proceed with the acquisition of the property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

WHEREAS, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

WHEREAS, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

WHEREAS, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Callaghan – W. Horseshoe Bend to Ingram Metropolitan Planning Organization Project is hereby declared to be a necessary public project.

SECTION 2. The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to certain privately owned real property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Callaghan – W. Horseshoe Bend to Ingram Metropolitan Planning Organization Project in San Antonio, Bexar County, Texas.

SECTION 3. A specific public necessity exists to acquire by negotiation and/or condemnation; if necessary, the property more specifically described in the "Metes and Bounds Description: affixed hereto as **Attachment I** incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property".

SECTION 4. The approved compensation for the Property is shown in **Attachment II** which is attached hereto and incorporated herein for all purposes.

SECTION 5. The budget in fund 43-172095, 2002 Certificates Of Obligation Street Improvements, shall be revised by reducing index code 753046, entitled Unallocated Appropriations, in the amount of \$891,925.00.

SECTION 6. The amount of \$891,925.00 is appropriated in fund 43-172025, 2002 Certificates Of Obligation Street Improvements, in index code 933069, entitled Transfer to 43-617036 Callaghan Road. The amount of \$891,925.00 is authorized to be transferred from 43-172025 to fund 43-617036.

SECTION 7. The budget in Fund 43-617000, 1996 Certificates of Obligation Street Improvements, shall be revised by increasing Index Code 138115, entitled Transfer from 43-172025 (43-617036), in the amount of \$891,925.00.

SECTION 8. The amount of \$3,000.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 683490, entitled Appraisal Fees, and is authorized to be encumbered and made payable for appraisal services in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 9. The amount of \$725,725.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 470658, entitled Purchase of Land, and is authorized to be encumbered and made payable for purchase of land in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 10. The amount of \$28,500.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 470666, entitled Title Fees, and is authorized to be encumbered and made payable for title fees in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 11. The amount of \$86,000.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 470740, entitled Administrative Settlements, and is authorized to be encumbered and made payable for administrative settlements in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 12. The amount of \$35,000.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 470765, entitled Legal Fees, and is authorized to be encumbered and made payable for legal fees in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 13. The amount of \$3,000.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 470773, entitled Lender fees, and is authorized to be encumbered and made payable for lender fees in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 14. The amount of \$5,700.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 470781, entitled Right of Entry Fees, and is authorized to be encumbered and made payable for right of entry fees in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 15. The amount of \$5,000.00 is appropriated in fund 43-617036, 1996 Certificates of Obligation Street Improvements, in index code 467282, entitled Miscellaneous Fees, and is authorized to be encumbered and made payable for miscellaneous fees in connection with the Callaghan W. Horseshoe Bend to Ingram Project.

SECTION 16. The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the property from the owners as the owner's are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

SECTION 17. That in the event that the City staff is unable to acquire one or more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Patterson, L.L.P. as special counsel as may be needed from time to time and to pay for the services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

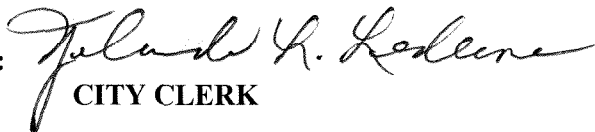
SECTION 17. Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

SECTION 18. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific Index Codes and fund numbers as necessary to carry out the purpose of this Ordinance.

SECTION 19. This Ordinance shall be effective on the 29th day of February, 2004.

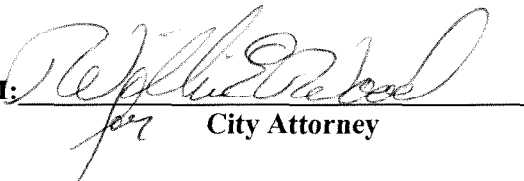
PASSED AND APPROVED this the 19th day of February, 2004.

ATTEST:


CITY CLERK


M A Y O R
EDWARD D. GARZA

APPROVED AS TO FORM:


for City Attorney